REMARKS

Within the Office Action dated 01 April 2009, the Examiner rejected claims 1-2, 5, 6, 8-10, 13, 14 and 16-20 under 35 U.S.C section 103(a) as being unpatentable over United States Patent 7,089,321 B2 (*Hayashi*) in view of United States Patent Application 2004/0268407 (*Sparrell et al.*).

Claims 3 and 11 were rejected under 35 U.S.C. section 103(a) as being unpatentable over *Hayashi*, in view of *Sparrell et al.* and United States Patent Application 2007/0199030 (*Ellis et al.*).

Claims 4 and 12 were rejected under section 103(a) as being unpatentable over *Hayashi* in view of *Sparrell et al.* and United States Patent Application 2004/0221302 (*Ansari*).

Claims 7 and 8 were rejected under section 103(a) as being unpatentable over *Hayashi* in view of *Sparrell et al.* and United States Patent Application 2006/0179462 (*Willame*).

Claim 21 was rejected under section 103(a) as being unpatentable over *Hayashi*, in view of *Sparrell et al.* and "Automatic Windows 98/ME TCP/IP Addressing Without a DHCP Server" (*APIPA*).

By this response Applicants amend claims 1, 9 and 17, but do not add or cancel any claims. Accordingly, claims 1-21 will be pending in the application upon entry of this amendment.

Initially, the Examiner and his Supervisor are thanked for the courtesies extended during the telephonic interview held on 23 April 2009 to continue the 21 January 2009 discussion of the independent claims and the *Sparrell et al.* reference. In view of the discussion, Applicants amend the claims to further clarify the distinctions between the cited references and the claims.

Notable features of amended Claim 1 are "storing, in a memory, the designated state for the first tuner prior to at least one scheduled event based on said allocating; detecting a conflict for the first tuner among the requesting clients; resolving the conflict among the requesting clients based on the designated state of the first tuner stored in the memory" By virtue of these features, conflicts can be resolved through predetermined conflict management procedures. For example, just prior to the time of a scheduled event, the system determines whether a tuner is available based on pre-designated states. Support for these features can be found at least in paragraphs 0036, 0044-0045, and 0070 of the specification.

As understood by Applicants, the system of *Sparrell et al.* includes a centralized resource manager that allows reservation of network resources and if the television is turned off, a tuner may be reallocated. If it is off, another user can cause the system to "tear[s] down the previously instantiated graph (media pipeline) and re-allocate the network resources to the current media request." *Sparrell et al.*, at [0077].

On page 2 of the Office Action, it states

> The state of streaming to a television device is a "maybe free state
> as claimed because the media server has no way of knowing when
> any particular TV is on or off (Sparrell para [0077]), so the tuner
> may or may not be in use by a user. Thus by using a designated
> state of streaming to a television to reallocate a tuner...the PVR
> system resolves the conflicts between the tuner request and the fact
> that all tuners are already reserved.

On page 4 of the Office Action, it states

> ...a tuner may be designated to record a program...so it is "busy"
> during recording...a tuner may be reserved for streaming to a
> television...but the media server does not know whether the
> television is on or off...so the tuner is "maybe free" ...for a

determination of whether the tuner is free or not, and a totally free
states (an available resource).

(some internal formatting omitted).

Applicants submit that none of the above situations are designated "prior to at least one scheduled event," as recited in Claim 1. Indeed, a scheduled event in the *Sparrell et al.* system does not indicate either a "busy" or "maybe" because the *Sparrell et al.* can only detect whether a tuner is 'on' or 'off'.

The Office Action analogizes a tuner being reserved for streaming as being "maybe free." Initially, Applicants respectfully submit that nothing in *Sparrell et al.* even contemplates this state, much less in the context of a predetermined state because *Sparrell et al.* only look at the current status of the tuner to determine if there is a conflict. In stark contrast, Claim 1 recites storing a designated state "prior to at least one scheduled event" such that, for example, streaming can be designated as "busy" if the tuner has been scheduled for recording a video.

Nothing has been found in *Sparrell et al.* that would teach, suggest, or even contemplate "storing, in a memory, the designated state for the first tuner prior to at least one scheduled event based on said allocating; detecting a conflict for the first tuner among the requesting clients; resolving the conflict among the requesting clients based on the designated state of the first tuner stored in the memory" as recited in Claim 1 (emphasis added).

Applicants submit that nothing in *Hayashi* and *Ansari* have been found that remedies the deficiencies of *Sparrell*.

Accordingly, Applicants submit that Claim 1 is patentable over the cited art, and respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a).

Independent Claims 9 and 17 are server and system claims respectively corresponding to

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method Claim 1, and are believed to be patentable for at least the reasons discussed above in connection with Claim 1.

A review of the other art of record has failed to reveal anything that, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as applied against the independent claims herein. Therefore, those claims are respectfully submitted to be patentable over the art of record.

The other claims in this application depend from one or another of the independent claims discussed above, and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

Based on the foregoing remarks, Applicants believe that the claims, namely claims 1-21, are in condition for allowance. If the Examiner has any questions regarding the case, the Examiner is invited to contact Applicants' undersigned representative at the number given below.

Respectfully submitted,

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